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31 March 2023

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Ms Nicola Roscoe
General Manager, Strategy & Regulation
Energex Limited and Ergon Energy Corporation Limited

By email

Dear Nicola

Re: Application for Jurisdictional Scheme Determination for the Queensland Electrical Safety Office Levy

I refer to your application of 6 March 2023 requesting the determination of a jurisdictional scheme established under the *Electrical Safety Act 2002 (Qld)*.

We (the AER) have determined that the scheme established under section 201 of the *Electrical Safety Act 2002 (Qld)* is a jurisdictional scheme¹, as it meets the jurisdictional scheme eligibility criteria² under the NER. The jurisdictional scheme applies to each of Energex Limited (Energex) and Ergon Energy Corporation Limited (Ergon Energy) in its role as a distribution network service provider in Queensland.

Our assessment of your application and our reasons for the decision are set out below.

Background

The *Electrical Safety Act 2002 (Qld)* established the Queensland Electrical Safety Office (ESO), Queensland's electrical safety regulator. The ESO monitors and enforces compliance with the *Electrical Safety Act* by:

- ensuring electrical safety laws and standards are followed,
- managing electrical licenses for individual works and contractors,
- registering, accrediting, and certifying electrical safety equipment, and
- providing electrical safety information and education and training.

The ESO is funded through a provision in the *Electrical Safety Act 2002 (Qld)*, that requires distribution entities to pay a contribution to the regulator each financial year. This contribution is the 'jurisdictional scheme obligation'.

On 6 March 2023, Energex and Ergon Energy submitted a request to the Australian Energy

¹ NER, cl. 6.18.7A(d) defines jurisdictional scheme.

² The jurisdictional scheme eligibility criteria for a jurisdictional scheme are set out in sub-clause 6.18.7A(x) of the NER.

Regulator (AER) to determine that the scheme established under section 201 of the *Electrical Safety Act 2022 (Qld)* is a jurisdictional scheme³ pursuant to clause 6.18.7A of the National Electricity Rules (NER).

The NER requires the AER to publish a request for a jurisdictional scheme determination as soon as practicable after its receipt⁴. We published the application from Energex and Ergon Energy on our website on 7 March 2023.

Reasons for Determination

We are satisfied that the request from Energex and Ergon Energy was made in accordance with NER requirements. It included the required information and met the eligibility criteria for jurisdictional schemes as described in the NER (see Table 1).

Table 1. Jurisdictional scheme eligibility criteria and AER assessment

Eligibility Requirements	AER Assessment
<p>(1) The jurisdictional scheme obligations⁵ require a distribution network service provider to:</p> <ul style="list-style-type: none"> (i). Pay a person; (ii). Pay into a fund established under an Act of a participating jurisdiction; (iii). Credit against charges payable by a person; or (iv). Reimburse a person, <p>An amount specified in, or determined in accordance with, the jurisdictional scheme obligations;</p>	<p>We are satisfied this criterion is met.</p> <p>The jurisdictional scheme obligation imposed on Energex and Ergon Energy is contained in section 201 of the <i>Electrical Safety Act 2002 (Qld)</i>.</p> <p>The scheme requires Energex and Ergon Energy to pay the Electrical Safety Office an 'electrical safety contribution' each financial year. Sections 202 to 204 of the <i>Electrical Safety Act 2002 (Qld)</i> set out how the amount payable is determined.</p> <p>A 'person' is defined in the National Electricity Laws (NEL) to mean a body politic or body corporate, as well as an individual.⁶</p>
<p>(2) The jurisdictional scheme obligations are imposed on a distribution network service provider in its capacity as a distribution network service provider;</p>	<p>We are satisfied this criterion is met.</p> <p>The scheme under section 201 of the <i>Electrical Safety Act 2002 (Qld)</i> applies to Queensland Distribution Network Service Providers (DNSPs).</p> <p>The obligations are imposed on Energex and Ergon Energy in their capacity as DNSPs.</p>

³ The *Electrical Safety Act 2002* was enacted on 1 October 2002.

⁴ NER, cl. 6.18.7A(h).

⁵ These are defined in Chapter 10 of the NER as: 'Obligations imposed on a Distribution Network Service Provider under: (a) an Act of a participating jurisdiction or an instrument, direction or order made under an Act of a participating jurisdiction (other than the NEL and the Rules); or (b) a condition of a distribution license or authority held by a Distribution Network Service Provider in a participating jurisdiction.'

⁶ NEL, cl. 10 of schedule 2, which applies to the NER by reason of NEL, section 3.

Eligibility Requirements	AER Assessment
(3) The amount referred to in subparagraph (1) is not in the nature of a fine, penalty or incentive payment for the distribution network service provider; and	We are satisfied this criterion is met. The amount payable by Energex and Ergon Energy is to fund the activities of the Electrical Safety Office. The amount payable is not in the nature of a fine, penalty or incentive payment.
(4) Except as provided in the NER, the distribution network service provider has no right to recover the amount referred to in subparagraph (1) from any person.	We are satisfied this criterion is met. There are no alternate legal avenues for Energex and Ergon Energy to recover the amounts payable from any person, except as provided in the NER.

What this determination means for Energex, Ergon Energy and their electricity distribution determinations

The contributions Energex and Ergon Energy pay to the ESO under the *Electrical Safety Act 2002 (Qld)* are currently captured in forecast operating expenditure as part of their regulated revenue allowances for each 5-year regulatory control period.

This determination will take effect from 1 July 2025, at the commencement of the next electricity distribution determinations for Energex and Ergon Energy. From that date, these costs will no longer be treated as operating expenditure nor included in Energex's and Ergon Energy's regulated revenue allowances. Instead, the ESO contributions will be passed on to customers as jurisdictional scheme amounts through Energex's and Ergon Energy's annual pricing proposals.

From year to year, adjustments to correct for any over- or under-recovery as part of those estimates will be made to ensure that only actual contributions are recovered.

Should you wish to discuss any of the above, please contact Sean Mullins on [REDACTED] or sean.mullins@aer.gov.au.

Yours sincerely

[REDACTED]

Warwick Anderson
General Manager
Australian Energy Regulator

Sent by email on: 31.03.2023